IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No. 116 of 2007.

Date of Decision: 29th October, 2007.

Gurditta. **Petitioner.**

Versus

Land Acquisition Collector and others. **Respondents.**

Coram

The Hon'ble Mr. Justice V.K. Gupta, C.J.

Whether approved for reporting?[1]

For the petitioner:	Mr. Tara Singh Chauhan, Advocate.
For the respondents:	Mr. P.M. Negi, Dy. Advocate General, for respondents No.1 and 2. Mr. C.N. Singh, Advocate, for respondent No.3.

V.K. Gupta, C.J. (Oral).

The learned Court below by referring to and relying upon Section 51-A of the Land Acquisition Act has rejected the petitioner's application for leading rebuttal evidence. After hearing the learned counsel for the parties, I set aside the impugned order because in my considered opinion, reliance put up upon Section 51-A of the Act was misplaced as well as totally out of the context. Mr. Chauhan has referred to the following observations of their Lordships of the Supreme Court in the case of **Cement Corpn. of India Ltd**. vs. **Purya and others**, reported in (2004) 8 SCC 270.

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[1] Whether the reporters of Local Papers may be allowed to see the judgment?

> "35. A registered document in terms of Section 51-A of the Act may carry therewith a presumption of genuineness. Such a presumption, therefore, is rebuttable. Raising a presumption, therefore, does not amount to proof; it only shifts the burden of proof against whom the presumption operates for disproving it. Only if the presumption is not rebutted by discharging the burden, the court may act on the basis of such presumption. Even when in terms of the Evidence Act, a provision has been made that the court shall presume a fact, the same by itself would not be irrebuttable or conclusive. The genuineness of a transaction can always fall for adjudication, if any question is raised in this behalf."

Undoubtedly if copies of some registered sale deeds were produced by respondent No.3 in the Court, unless the petitioner leads rebuttal evidence with respect to the contents of such sale deeds touching upon the transactions forming the subject matter of such sale deeds the transactions would become conclusive evidence. It, therefore, clearly transpires that the petitioner in fact had the right of leading rebuttal evidence.

The petition is allowed. The impugned order is set aside. The application of the petitioner for rebuttal evidence is hereby allowed.

The petition is disposed of.

CMP No.374 of 2007.

In view of the disposal of the main petition, this application is disposed of. Interim order passed on 15th June, 2007 shall stand vacated.

29th October, 2007. (V.K. Gupta), C.J.

(tr)